

AN ACT RELATIVE TO THE AMHERST TOWN GOVERNMENT

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- SECTION 1. Chapter 10 of the acts of 1936 is hereby repealed.
- SECTION 2. Chapter 11 of the acts of 1951 is hereby repealed.
- SECTION 3. Chapter 65 of the acts of 1951 is hereby repealed.
- SECTION 4. Sections 6, 7, 8 and 9 of chapter 512 of the acts of 1972 are hereby repealed.
- SECTION 5. Chapter 1088 of the acts of 1973 is hereby repealed.
- SECTION 6. Chapter 404 of the acts of 1998 is hereby repealed.
- SECTION 7. The following shall constitute the charter of the town of Amherst:

AMHERST TOWN GOVERNMENT ACT As amended by Chapter 263 of the Acts of 2006

1. Election Provisions

1.1 Town government positions to be filled by election

The town shall elect town meeting members, a moderator, members of the select board and school committee, and trustees of the town library. The town shall also elect, on the same ballot, town representatives to the following state or regional authorities: Oliver Smith Will Electors, Redevelopment Authority, Housing Authority and Hampshire Council of Governments. All are subject to any applicable provision of the law. The terms of office of such officers or boards shall not be interrupted.

1.2 Districting

1.21 Advisory board

Every ten (10) years, upon receipt of the final results of the decennial federal census, the select board shall appoint a districting advisory board composed of nine (9) members from diverse geographical areas of the town, plus the town clerk or the town clerk's designee as a non-voting member ex officio.

1.22 Process and reporting

The districting advisory board shall recommend to the select board a division of the territory of the town into not less than five (5) precincts, each of which shall be plainly designated. They shall be so established as to consist of compact and contiguous territory with numbers of inhabitants as nearly equal as feasible, and be bounded as far as possible by the center line of known streets and ways or by other well defined limits.

The districting advisory board shall include in its recommendations to the select board a map or maps of the precincts as established or revised from time to time, with the numbers of inhabitants therein. The select board shall report its decisions on said recommendations to the town clerk, who shall forthwith give written notice thereof to the state secretary, stating the number and designation of the precincts, the number of inhabitants of each precinct and such other information as shall be required by law. Any revision of such precincts shall take effect upon receipt of the approval of the state secretary in writing, after which the town clerk shall notify each household of registered voters of said revisions, and shall also cause to be posted in at least one (1) public place in each precinct a map or description of that precinct, with the names and residences of the registered voters therein.

1.3 Conduct of elections

Meetings of the registered voters of the several precincts for elections, for primaries, and for voting upon any question to be submitted to all registered voters of the town, shall be held on the same day and at the same places within this town as the select board shall in the warrant for such election direct, and the polls shall open at 7:00 a.m. and shall close at 8:00 p.m. The General Laws relating to precinct voting at elections shall apply to all elections and primaries in the town.

1.4 Election of select board members

At each annual election there shall be elected in place of those select board members whose terms are about to expire an equal number of members, each to serve for three (3) years. The select board members shall serve until their successors are elected and qualified. If, for any reason, a vacancy or vacancies occur in the membership of the select board, the remaining members shall call a special town election to fill the vacancy or vacancies for the unexpired term or terms, except if such vacancy or vacancies occur less than ninety (90) days before the annual election and no fewer than three (3) select board members remain in office, the vacancy or vacancies shall remain until such annual election.

1.5 Election of representative town meeting member

1.51 Number of members

The number of elected town meeting members in all precincts shall be equal among the precincts and in each precinct shall be the largest number divisible by three (3) which will cause the total elected membership to be as near two hundred forty (240) as possible.

1.52 Nominations

Nomination of candidates for town meeting member to be elected under this act shall be made by nomination papers which shall bear no political designation; to the name of a candidate for re-election shall be added the words "Candidate for Re-election." Nomination papers shall be signed by at least one (1) registered voter of the precinct in which the candidate resides, and shall be filed with the town clerk at least forty-nine (49) days before the election. No nomination paper shall be valid in respect to any candidate whose written acceptance is not thereon or attached thereto when filed.

1.53 Elections

1.531 Balloting

The registered voters in any precinct affected by any revision of precincts, at the first annual town election following such revision, and conformable to the laws relative to elections not inconsistent with this act, shall elect by ballot the number of registered voters from said revised precinct, other than the officers designated herein as town meeting members ex officio, to be town meeting members of the town.

1.532 Term of office

The first third, in the order of votes received, of members so elected in each precinct shall serve a three(3)-year term, the second third in such order shall serve a two(2)-year term, and the remaining third in such order shall serve a one(1)-year term from the day of the annual town election; and thereafter, except as provided herein, at each annual town election the registered voters of each precinct shall, in like manner, elect for the term of three (3) years, one third (1/3) of the number of elected town meeting members to

which such precinct is entitled, and shall at each such election fill for the unexpired term or terms any vacancy or vacancies then existing in the number of elected town meeting members in such precinct.

In case of a tie vote affecting the division into thirds, as aforesaid, the members elected from the precinct at the same election, other than those whose terms of office are affected by such tie vote, shall by ballot determine which members receiving such tie vote shall serve for the longer and which for the shorter term. In the case of a tie vote affecting the election of town meeting members in any precinct otherwise than as to term of office, the members elected from such precinct at the same election shall by ballot determine which of the candidates receiving such tie vote shall serve as town meeting member from such precinct. The terms of office of all elected town meeting members from every precinct revised as aforesaid shall cease upon the election of their successors as hereinbefore provided.

1.533 Notification

The town clerk shall, after the election of town meeting members, forthwith notify such members by mail of their election.

1.534 Members assuming ex officio status

Any elected town meeting member who becomes by appointment or election one (1) of the officers designated as town meeting members ex officio shall, upon such appointment or election, cease to be an elected town meeting member.

1.54 Term of office of members filling vacancies

Town meeting members elected to fill vacancies between town elections shall serve until the next annual town election.

1.541 Vacancies between election and annual meeting

In the event of a vacancy in the full membership of town meeting following the annual town election, and prior to the annual town meeting of the same year, such vacancy shall be filled by the losing candidate at the same election with the largest number of votes in that precinct who shall serve only until the next annual town election. If there is a tie vote among two (2) or more such candidates, the remaining elected members of the same precinct shall, by ballot, choose from among those tied and the winner shall serve until the next annual town election. In such cases, the town clerk shall call a special meeting of the remaining elected members of such precinct to be held within thirty (30) days following the annual town election, and shall cause to be mailed to every such member a notice specifying the purpose, time and place of the meeting, not less than five (5) days preceding the date scheduled. In the event there are no candidates available to fill the vacancy, the procedures outlined in Section 1.542 shall be followed.

1.542 Vacancies occurring after annual meeting

1.5421 Filled by precinct member elections

In the event of any vacancy in the full number of elected town meeting members from any precinct, the town clerk shall, not less than thirty (30) days prior to the first special town meeting after October 1 but before December 31, mail written notice of such vacancy to the remaining elected members of the precinct and shall publish said notice in a newspaper of general circulation in the town. Nomination papers to fill any vacant seat may be filed by any registered voter of the precinct with the town clerk until the close of business on the eighth (8th) day following the date of publication. The town clerk shall on or before the close of business on the seventh (7th) day thereafter certify the qualified candidates, mailing to the remaining town meeting members in the precinct a copy of such certification together with a written ballot identifying the qualified candidates and the number of vacancies to be filled. The remaining elected town meeting members of the precinct shall, on or before the seventh (7th) day following said mailing, cause their ballots to be delivered to the town clerk in a sealed envelope. On the first business day

following said seventh (7th) day the town clerk shall open the envelopes at a duly noticed public meeting and shall certify the election of those with the largest number of votes, ties to be resolved by the town clerk by lot.

1.5422 Filled by precinct member meetings

In the event of any vacancy in the full number of elected town meeting members from any precinct which cannot be filled by means of the above-mentioned procedure, the remaining elected members of the precinct may choose a successor from among the registered voters thereof. Upon petition therefor, signed by no fewer than ten (10) elected town meeting members from the precinct, or if the entire number of elected town meeting members from said precinct is fewer than eighteen (18), by a majority thereof, notice of any vacancy shall be made promptly to the remaining elected town meeting members from the precinct wherein the vacancy or vacancies exist by the town clerk, who shall call a special meeting of such members for the purpose of filling a vacancy. The town clerk shall cause to be mailed to every such member, not less than five (5) days before the time set for the meeting, a notice specifying the object, time and place of the meeting. At the meeting, a majority of the elected town meeting members from such precinct shall constitute a quorum, and they shall elect from their own number a chair and a clerk. The election to fill such vacancy shall be by ballot and a majority of the votes cast shall be required for a choice. The chair and the clerk shall count the ballots and shall make a certificate of such election and forthwith file the same with the town clerk, together with a written acceptance by the member or members so elected, who shall thereupon be deemed elected and qualified as a town meeting member or members.

1.543 Resignations and removals

A town meeting member may resign by filing a written resignation with the town clerk, and such resignation shall take effect on the date of such filing. A town meeting member ex officio or elected town meeting member who removes from the town shall cease to be a town meeting member, and an elected town meeting member who removes from one (1) precinct to another may serve only until the next annual town election.

2. Representative Town Meeting

2.1 Powers and limits of town meeting

2.11 Powers

The town of Amherst shall have the capacity to act through and be bound by its town meeting members, who shall, when convened from time to time, as herein provided, constitute representative town meetings; the representative town meetings shall exercise exclusively, so far as will conform to the provisions of this act, all powers vested in the municipal corporation.

Action in conformity with all the provisions of law now or hereafter applicable to the transaction of town affairs in town meeting, shall, when taken by a representative town meeting in accordance with the provisions of this act, have the same force and effect as if such action had been taken in a town meeting open to all the voters of the town as organized and conducted before the establishment of representative town government.

2.12 Limits

This act shall not abridge the right of the inhabitants of Amherst to hold general meetings, as that right is secured to them by the constitution of this commonwealth; nor shall this act confer upon any representative town meeting in Amherst the power finally to commit the town to any measure affecting its

municipal existence or changing its form of government, without action thereon by the voters of the town at large at an annual town election, using the ballot and voter check list therefor in accordance with the applicable provisions of the General Laws.

2.2 Organization

2.21 Membership

2.211 Members

Any representative town meeting held under the provisions of this act, except as otherwise provided herein, shall be limited to the town meeting members elected by precinct, together with the following members ex officio: the moderator, the members of the select board, the members of the school committee, the president of the town library trustees, the chair of the finance committee, the town manager, and such other town meeting members ex officio as may be provided for in the bylaws of the town without being subject to section 32 of chapter 40 of the General Laws. Any elected town meeting member who becomes by appointment or election one (1) of the officers designated as town meeting members ex officio shall, upon such appointment or election, cease to be an elected town meeting member.

2.212 No compensation

Town meeting members elected by precinct shall receive no compensation.

2.22 The moderator

The moderator shall be elected by ballot at each annual town election and shall serve as the moderator of all town meetings, except as otherwise provided by law, until a successor is elected and qualified. Nomination for and election of the moderator shall be as in the case of all other elective town officers, and any vacancy in the office of moderator shall be filled by the town meeting members as the first order of business at the next town meeting following the occurrence of the vacancy. If the moderator is absent or must step down due to conflict of interest, a moderator pro tempore shall be elected by the town meeting members.

2.23 Finance committee

There shall be a finance committee consisting of seven (7) members to be appointed by the moderator. It shall be the duty of this committee to investigate all proposals in the articles of the warrant for any town meeting that shall in any way affect the finances of the town and to recommend to the town at the time of said meeting a course of action thereon, and in general to make recommendations to the town in regard to any financial business of the town. It shall have control of the reserve fund of the town and make appropriations therefrom.

2.3 Operations of town meeting

2.31 Notification

The town clerk shall notify the town meeting members of the time and place at which representative town meetings are to be held and the notices shall be sent by mail at least ten (10) days before the meeting.

2.32 Rules and procedures

A majority of the town meeting members shall constitute a quorum for doing business, but a lesser number may organize temporarily and may take a recess or adjourn from time to time, but no town meeting shall adjourn to a date that falls after the next election of town meeting members.

2.33 Public participation

All town meetings shall be public. Subject to such conditions as apply to the members of the representative town meeting, any registered voter of the town who is not a town meeting member may speak at any representative town meeting, but shall not vote. Persons who are not registered voters of the town may, subject to the same conditions, speak at any representative town meeting if the town meeting votes that they may do so.

2.34 Action on the warrant

All articles in the warrant for any town meeting shall be acted on and determined exclusively by town meeting members at a meeting to be held at such time and place as shall be set forth by the select board in the warrant for the meeting, subject to the referendum herein provided for. No article in the warrant of any representative town meeting shall be finally disposed of by a vote to lay upon the table, indefinitely to postpone or to take no action thereunder.

2.4 Referendum

A final vote of any representative town meeting passing or rejecting a measure under any article in the warrant shall not be operative until after the expiration of five (5) days, exclusive of Saturdays, Sundays and legal holidays, from the dissolution of the meeting. If, within said five (5) days, a petition, signed by registered voters of the town totaling not fewer than five (5) percent of the total number of registered voters of the town which number shall not include the number of inactive voters, containing their names and addresses substantially as they appear on the list of registered voters, is filed with the select board, asking that the question or questions involved in such vote be submitted to the registered voters of the town at large, then the operation of such vote shall be further suspended pending the determination as hereinafter provided. If such petition is not filed within said period of five (5) days, the vote of the representative town meeting shall become effective and operative upon the expiration of said period.

2.41 Excluded measures

The following measures shall not be the subject of a referendum called under the provisions of this section: votes to adjourn; votes authorizing the expenditure of less than twenty thousand dollars; votes appropriating money for the payment of notes or bonds of the town and interest becoming due in the then current financial year; votes for the temporary borrowing of money in anticipation of revenue; votes rejecting proposed zoning bylaw amendments; votes declared by preamble by a two-thirds (2/3) vote of the town meeting members present and voting thereon to be an emergency measure necessary for the immediate preservation of the peace, health, safety or convenience of the town.

2.42 Election procedure

The select board, upon the filing of a petition under this section, shall submit said petition to the registrars of voters who shall within ten (10) days certify the signatures thereon. Within ten (10) days of receipt of written notice of certification of a sufficient number of signatures, the select board shall call a special town election, which shall be held as soon as practicable in accordance with law after the issuing of the call, for the sole purpose of presenting to the registered voters at large the question or questions so involved. The polls shall open at 7:00 a.m. and shall close at 8:00 p.m. All votes upon any question so submitted shall be taken by ballot, and the voter check list shall be used in the several polling places in the same manner as in the election of town officers. No ballots shall be removed or counted before the closing of the polls. The question or questions to be submitted to be voted on at said special town election shall be

stated on the ballot in substantially the same language and form in which they were stated when finally presented to the representative town meeting by the moderator, as appears from the records of such town meeting.

2.43 Determination of result

A question put to the voters at large under the provisions of this section shall be determined by a vote of the same proportion of voters voting thereon as would have been required by law had the question been finally determined at a representative town meeting. No action of the representative town meeting shall be reversed unless a number of registered voters equal to at least eighteen (18) percent of all the active registered voters shall so vote. Otherwise the action shall take effect immediately upon the certification by the town clerk of the vote upon the referendum.

2.44 Calculations

To determine the total number of active voters of the town in making calculations required by this section, the town clerk shall use the number of active voters as of the dissolution of the town meeting at which the question proposed to be submitted to voters of the town at large was voted upon by town meeting members. The number of inactive voters at the dissolution of said town meeting shall be excluded from the calculations.

3. The Select Board

3.1 Organization

The five members of the select board shall be elected at large as the town's chief elected officials.

3.2 Powers and duties

The select board shall exercise such powers as are provided to municipalities or to boards of selectmen in the General Laws which have not been superseded by the provisions of this act. It shall be responsible for the general governance of the town. Other powers and duties shall include, but not be limited to those listed below.

3.21 Policy making

The select board shall initiate policy proposals as well as consider and make decisions on policy recommendations brought to it. It shall make guidelines for the manager in preparation of the annual budget proposal. It shall review and make recommendations on the proposed annual budget.

3.22 Appointive

3.221 Town manager

The select board shall appoint the town manager on merit and fitness and shall supervise the manager as provided in section 4.1 of this act.

3.222 Other select board appointments

The select board shall appoint on merit and fitness and may remove for cause, members of the board of appeals, personnel board, election officers, the registrar of voters, except the town clerk, and such members of boards, committees and commissions as are needed or as provided by town bylaws, town meeting action or acts of the general court, with the exception of the finance committee and such regulatory boards, committees and commissions listed in Section 3.223.

3.223 Select board confirmation of appointments

The select board shall confirm appointments by the town manager to the following regulatory boards and commissions: the conservation commission, the board of health, the planning board, and the historical commission.

3.224 Supervision of committees

The select board shall supervise the boards, committees and commissions that they appoint to ensure that the charge is carried out in a timely manner and that meetings are held in conformance with the laws regarding open meetings of governmental bodies.

3.23 Legislative

3.231 Town meeting warrant

The select board shall call and issue warrants for town meeting.

3.232 Recommendations to town meeting

The select board shall make recommendations to town meeting.

3.233 Town meeting actions

The select board shall implement appropriately the actions of town meeting.

3.234 Referendum ballots

The select board shall approve the placement of items on the town's ballot for referendum vote. The select board shall determine by majority vote whether to allow a debt exclusion from or an override of the levy limit. The select board shall frame the question for an override or a debt exclusion.

3.24 Regulatory

3.241 Licenses and permits

The select board shall issue certain licenses and permits as provided by state law and town bylaw.

3.242 Bylaw enforcement

The select board shall oversee appropriately the enforcement of sections of the town bylaws.

3.243 Water and sewer duties

The select board shall serve as the water commission and as the sewer commission.

3.244 Regulation of public ways

The select board shall control and regulate the public ways.

3.25 Financial

3.251 Budget

The select board shall make recommendations to the town on the annual operating budget and the capital program.

3.252 Signing bonds and notes

The select board shall sign all bonds and notes for the borrowing of money.

3.253 Reviewing grants and contracts

The select board shall review all contracts of over one million dollars (\$1,000,000) and all grants with implication of future financial decisions beyond the current fiscal year.

3.254 Encouraging joint financial planning

The select board shall encourage joint financial planning among town, school and library officials.

3.26 Investigative

The select board may, subject to appropriation, employ experts, counsel and other assistants and incur other expenses.

4. The Town Manager

4.1 Appointment of town manager

The select board shall appoint a town manager who shall be a person especially fitted by training and experience to perform the duties of the office and who shall be appointed without regard to political affiliation and in accordance with state and federal anti-discrimination laws and regulations.

The town manager need not be a resident of the town or of this commonwealth when appointed, but shall become a resident of the town within six months or within such time as stipulated in the contract at the time of appointment and remain such while in office. The town manager shall devote full time to the duties of the office and shall therefore not hold any other elective or appointive paid governmental office, nor shall the town manager engage in any other business, unless such actions are approved by the select board. This does not exclude the manager's participation in related professional organizations.

Before entering upon the duties of the office, the town manager shall be sworn to the faithful and impartial performance thereof by the chair of the select board, or by the town clerk, or by a justice of the peace.

4.2 Appointment of a temporary manager

Any vacancy in the office of town manager shall be filled as soon as possible by the select board. Pending the appointment of a town manager or the filling of any vacancy, the select board may appoint a suitable person as temporary town manager to perform all duties of the office.

4.3 Acting town manager

The town manager may designate by letter filed with the select board a qualified officer of the town to perform the duties of manager during the manager's temporary absence. If the manager fails to make such designation, the select board may designate an officer of the town to perform the manager's duties until the manager returns.

4.4 Compensation of the town manager and employment contract

4.41 Compensation of the manager

The town manager shall receive such compensation for services rendered as the select board shall determine.

4.42 Employment contract

The town manager shall enter into a written employment contract with the town for a period not to exceed five years which may be renewed for additional terms. The manager serving when this act takes effect shall continue to be employed under a contract that contains no time limitations.

4.5 The manager's powers of appointment

4.51 Appointment and removal of officers and employees

Except as otherwise provided in this act the town manager shall appoint on merit and fitness and may remove all town officers and employees for whom no other method of selection or removal is provided, except employees of the school department and town library. All appointments and removal of

personnel shall be subject to the provisions of state and federal anti-discrimination laws, collective bargaining agreements, the limitations of existing appropriations and the town's personnel policies.

4.52 Initial compensation of employees

The town manager shall fix, subject to collective bargaining agreements, the limitations of existing appropriations and the town's personnel policies, the initial compensation of all appointed town officers and employees, except employees of the school department and the town library in accordance with all applicable provisions of section one hundred and eight A (108A) of chapter forty-one (41) of the General Laws if adopted.

4.53 Appointment of town counsel

The town manager shall have the authority to employ and discharge town counsel.

4.54 Other appointments

The town manager shall appoint, with approval of the select board, members of the planning board, conservation commission, historical commission, and board of health. The town manager shall appoint the assessors and members of boards, committees and commissions as are needed or as provided by town bylaws, town meeting action, or acts of the general court. All appointments to boards, committees and commissions shall be made on merit and fitness. The manager may remove for cause the appointees mentioned in this section.

4.55 Supervision of committees

The town manager shall supervise the boards, committees and commissions that the manager appoints to ensure that the charge is carried out in a timely manner and meetings are held in conformance with the laws regarding open meetings of governmental bodies.

4.6 Administrative powers and duties

The town manager shall be the chief administrative and fiscal officer of all town agencies, other than the schools and the library. In addition to specific powers and duties provided in this act the town manager shall have the general powers and duties enumerated below.

4.61 Administration and reorganization of departments and offices

4.611 Supervision

The town manager shall supervise and direct the efficient and responsible administration of all officers and employees appointed by the town manager and their respective offices and departments, and of all functions for which the town manager is given responsibility by the select board, or under the laws of the commonwealth, this act, and bylaws passed by town meeting.

4.612 Examination of town records

The town manager may without notice examine the records of any office or department under the manager's control and have access to all town books, papers, and electronic records for information necessary for the proper performance of the manager's duties.

4.613 Reorganization

The town manager may, in accordance with the provisions of this act and except as otherwise expressly prohibited by the General Laws reorganize, consolidate or abolish such departments or offices as are under the manager's authority, in whole or in part; establish such new departments or offices as the

manager deems necessary; and transfer the duties, powers, and appropriation when incidental to the reorganization of one (1) department or office to another.

4.62 Information and advice to the select board

4.621 Attendance at select board meetings

The town manager shall attend regular meetings of the select board except meetings at which the board considers the manager's salary, formulation of the manager's employment contract, and the manager's removal.

4.622 Ensure records available to select board

The town manager shall ensure that all town offices keep full and complete records which shall be available to the select board, and upon request to others as required by law.

4.623 Advice about needs of the town

The town manager shall keep the select board fully advised as to the needs of the town and shall recommend to the select board for adoption such measures requiring action by them or by the town as deemed necessary or expedient.

4.63 Supervision of town properties

The town manager shall have jurisdiction over the rental, use, maintenance, and repair of all town property except school property and property under the control of the town library trustees. The town manager shall be responsible for the preparation of plans and the supervision of work on existing buildings or on the construction of new buildings other than school buildings and buildings under the control of the library trustees. The town manager shall maintain and repair school buildings if and to the extent that the school committee requests, and the town manager shall maintain and repair buildings under the control of the library trustees if and to the extent that they so request.

4.64 Supplies, contracts and approval of warrants

4.641 Purchase of supplies

The town manager shall purchase all supplies, materials and equipment and shall award all contracts for all departments of the town except the schools and the town library unless, and to the extent that, the school committee or the trustees of the town library may request by signed requisition.

4.642 Approval of warrants

The town manager shall receive all warrants for the payment of town funds in accordance with section fifty-six (56) of chapter forty-one (41) of the General Laws. The approval of any such warrant by the town manager shall be sufficient authority to authorize payment by the town treasurer, but the select board shall approve all warrants in the event of a vacancy in the office of town manager.

4.65 Prosecution of litigation

The town manager shall have authority to prosecute, defend and compromise all litigation to which the town is a party and to employ special counsel whenever in the judgment of the select board it may be necessary.

4.66 Other administrative duties

4.661 Administer provisions of general and special laws

The town manager shall administer either directly or through a person or persons appointed in accordance with this act, all provisions of general and special laws applicable to the town, all bylaws voted by town meeting and all regulations established by the select board.

4.662 Other duties

The town manager shall perform such other duties, consistent with the office, as may be required by state law, the bylaws of the town, or by vote of the select board or of the town meeting.

4.7 Annual review of the town manager

The select board shall conduct an annual review for the purpose of assessing the strengths and weaknesses of the manager's performance.

The review shall be based on a written list of performance criteria developed by the select board. Copies of the criteria with an invitation to submit written comments shall be available to the public in the select board office. After due consideration the select board shall prepare a written report of its evaluation. The report shall be placed in the manager's personnel file and a written summary may be released to the public.

4.8 Review at the end of the contract period

The select board shall conduct an employment review at the end of the contract period to determine if the manager's employment contract should be renewed. In the event of the non-renewal of the manager's employment contract the provisions of Section 4.9 shall apply.

4.9 Removal of the town manager

The select board, by a vote of three (3) or more members of the board, may remove the town manager by the following procedures: At least thirty (30) days before such proposed removal shall become effective, the select board shall file a preliminary written resolution with the town clerk setting forth in detail the specific reasons for the manager's proposed removal, a copy of which resolution shall be delivered to the town manager.

The manager may reply in writing to the resolution and may request a public hearing. If the manager so requests, the select board shall hold a public hearing not earlier than twenty (20) days nor later than thirty (30) days after the filing of such request.

After the public hearing, if any, otherwise at the expiration of thirty (30) days following the filing of the preliminary resolution, and after full consideration, the select board by a vote of three (3) or more members of the board may adopt a final resolution of removal.

In the preliminary resolution, the select board may suspend the manager from duty, but shall in any case cause to be paid to the manager forthwith any unpaid balance of salary due in terms of the contract or salary for the next three (3) calendar months following the filing of the preliminary resolution, whichever is greater.

5. Budgetary Process and Fiscal Management

5.1 Annual operating budget

On or before January 16 of each year, the town manager shall submit to each member of the select board and finance committee a recommendation in writing of the appropriations for the town government for the ensuing fiscal year, showing specifically the amount required to meet the interest and maturing bonds and notes or other outstanding indebtedness of the town, and showing specifically the

amount recommended to be provided for each fund and department, together with a statement of the expenditures of the town for the same purpose in at least the two (2) preceding years and an estimate of the expenditures for the current year.

The manager shall also submit a statement showing all revenue received by the town in at least the two (2) preceding fiscal years together with an estimate of the receipts of the current year and an estimate of the amount of income from all sources of revenue exclusive of taxes upon property in the ensuing year and shall report the probable amount required to be levied and raised by taxation to defray all expenses and liabilities of the town. For the purpose of enabling the town manager to make up the annual estimate of expenditures, all boards, officers and committees of the town shall, upon the manager's written request, furnish all information in their possession, and before November 16 submit to the manager in writing a detailed estimate of the appropriations required for the efficient and proper conduct of their respective departments during the next fiscal year.

5.2 Capital improvement program

The town manager, with the advice of a joint capital planning committee comprised of representatives from the select board, finance committee, school committee and library trustees, shall develop a capital improvement program to be presented to the select board, finance committee, school committee and library trustees in time to be included in the finance committee report to the next annual town meeting.

SECTION 8. Any reference to the Amherst Representative Town Meeting Act, chapter 10 of the acts of 1936, chapter 65 of the acts of 1951, chapter 1088 of the acts of 1973, and chapter 404 of the acts of 1998, or to the Amherst Town Manager Act, chapter 11 of the acts of 1951, in any statute, law, bylaw, regulation, agreement, contract or other instrument, shall be deemed to refer to the Amherst Town Government Act.

Approved by Acting Governor Jane Swift on December 29, 2001.